

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, November 11, 2008 at Westfield City Hall. Members present included Dan Degnan, Craig Wood, Martin Raines, Randy Graham, and William Sanders. Also present were Jeremy Miller Planner I and City Attorney, Brian Zaiger.

APPROVAL OF MINUTES

Degnan moved to approve the October, 2008 minutes as presented.

Raines seconded, and the motion passed 5-0.

Sanders reviewed the Public Hearing Rules and Procedures.

OLD BUSINESS

0810-SE-02, 4909 Sheridan Road; *New Cingular Wireless PCS, LLC. AT&T Mobility*

The Appellant is requesting a Special Exception to the Westfield-Washington Zoning Ordinance (WC 16.04.125, B1) to allow a wireless communication tower and facility in an AG-SF1 District.

Miller reviewed the staff report and the history of the petition and reviewed the petitioner request, which is to place a cell-tower in the AG-SF1 district which would be a special exception. He stated the applicant has been through the TAC process and has addressed concerns from fire, safety, and utilities. He further stated that the Hamilton County Surveyor's Office identified that the applicant has proposed the building and tower located within the Beals and Cox regulated drain which is a 75-foot regulated drainage easement. The Surveyor's Office would be in support of the location, but the applicant would need permission from the drainage board to do so; applicant has not applied or been to the drainage board at this time.

Mr. Jason Riggs, representing the applicant, presented some background and details of the proposed wireless communication tower. He discussed surrounding property values, E911 service, and the petitioner exhibits.

Wood asked what kind of location is it going to take to get the blue areas to green.

Riggs responded it depends on the plans for that area.

Sanders asked does anyone look at within 200 feet of the tower in case of a tornado.

Riggs responded that standards are set by federal agencies to hold a certain wind load for the tower so they are structurally sound. He added the foundation will go down approximately 30 feet.

Sanders asked if there have been any towers that have collapsed.

Riggs stated that there have been a few that have collapsed and stated that the towers are typically a guide tower or a very old lattice tower.

Sanders asked if any towers like the one being proposed has ever collapsed.

Riggs stated that he is unaware of any towers like the proposed tower collapsing. He added that some towers that are not built well, overloaded, or not well maintained have had problems.

Sanders asked if any studies have been done on what the effect one of these towers has on attracting lightning.

Riggs responded there actually is a lightning rod which goes down in the ground and has grounding rings. He stated that he was not sure about any reports or studies and does not know if it would attract lightning to the area.

Sanders asked if the state of technology goes beyond necessity of cell towers, is there anything stating if the facility is vacated, the tower must be brought down.

Riggs responded there is a lease agreement with termination language stating at the end of term or if the lease is terminated, the structure will be brought down.

Miller stated the Westfield Ordinance does not speak to this issue.

Sanders suggested there be a condition of approval, that should they vacate the facility as far as a use, they have so much time to remove the tower.

Mr. Matt Price stated that if the use is abandoned, they would not have any objection to having that provision added to the lease agreement.

Graham expressed concern regarding the general health and safety risks involved in residing 200 feet away from such a tower.

Riggs stated that due to the Telecommunications Act of 1996, health issues cannot be addressed.

Raines asked if the metal structures were galvanized and constructed of low maintenance materials and if the building would be precast construction.

Riggs stated that the metal materials would be galvanized and the building would be precast construction.

Wood asked about if the tower collapse, how the tower collapses.

Riggs stated that the tower would collapse internally and would collapse in 20 to 50 foot sections. He also stated that a monopole design is where the design is tapered and is about 6 foot in diameter and where the sections taper down, the sections overlap about 5 to 6 feet and are tack welded in place.

A public hearing opened at 7:40 p.m.

No one spoke, and the public hearing closed at 7:41 p.m.

Wood asked Miller to elaborate on the finding regarding development being negatively impacted along the SR 38 corridor.

Miller stated depending on what the Thoroughfare plan says and what development may occur along SR 38, developers may be hesitant so development of the corridor could be impacted. He also stated that is the reason cell towers in AG-SF1 are a special exception so that such issues could be taken into consideration.

Degnan noted, in reference to the Comprehensive Plan, which calls for new suburban in this area, cell towers were not specifically addressed.

Miller responded that new suburban indicates more open land, more agricultural uses, single family homes, very small commercial use, home business, but mostly larger homes.

Sanders asked if the land to the south is Brehob.

Miller stated that the land to the south is Brehob and that the legal drain is to the north of Brehob and to the South of the proposed property.

Wood asked if Brehob had a back corner where the cell tower would fit.

Degnan asked about dates that the drainage board meets for condition five in the staff report.

Miller stated that the drainage board meets twice a month and that the Hamilton County Surveyor's Office would be in support of the encroachment, but the applicant would have to file with the Hamilton County Surveyor's Office and submit to the Hamilton County Drainage Board.

Graham moved to approve 0810-SE-02 with the following conditions:

1. Obtain approval from the Hamilton County Drainage Board for encroachment;
2. Obtain approval for an encroachment permit for the cell tower equipment building;
3. Increase landscape buffer on northeast side to six trees and northwest side to six trees.
4. No building permits will be issued until all encroachment and approvals are obtained from the Hamilton County Surveyor's Office and the Drainage Board.
5. This Special Exception will be void if approval is not obtained from the Drainage Board and encroachment permit is denied from the Hamilton County Surveyor's Office by April 15th, 2009.
6. Add a clause for abandonment in the lease that if the use of the tower is abandoned, the tower and building would be taken down and everything goes back to natural state.

Wood seconded, and the motion failed 2-3.

Discussion followed regarding the failed motion and alternatives.

Riggs requested to return to the Board at the next meeting to present further information.

Sanders moved to continue 0810-SE-02 to the December, 2008 meeting.

Wood seconded, and the motion passed 5-0.

0810-VU-05 3849 E. 216th Street; *Jeremy Ryan*

The Appellant is requesting a Variance of Use from the Westfield-Washington Zoning Ordinance (WC 16.04.030, B1) to allow a landscaping business in the AG-SF1 District.

Miller stated 0810-VU-05 has been withdrawn.

The meeting adjourned at 8:06 p.m.

Chairman

Secretary